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EXAMINER

BELIVEAU, SCOTT E

ART UNIT PAPER NUMBER

2623

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/916,903

Applicant(s)

CANG ET AL.

Examiner

Scott Beliveau

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-17 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 27 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on 17 July 2006 and 07 August 2006 have been entered.

### ***Drawings***

2. The correction to the specification related to the drawings was received on 17 July 2006. These corrections and the previously filled drawings are approved.

### ***Response to Arguments***

3. Applicant's arguments filed 07 August 2006 have been fully considered but they are not persuasive.

Regarding the rejection of claims 1-17 under 35 U.S.C. 103(a) under the combination of Elenbaas et al. and Barton, applicants traverse the rejection non the grounds that the combination fails to teach all of the claimed limitations and in particular the limitation of 'determining which of the predetermined number of channels contain programming'. Applicants appear to argue that the particular processing performed in order particularly determine the existence of programming (as set forth in the specification Page 9, lines 3-10;

Page 9, line 16 – page 10, line 3, page 10, lines 9-13, and page 10, line 19 – page 11, line 1) is different than that performed by the combined teachings. The examiner respectfully disagrees with the applicant's arguments.

In response to applicant's argument that the references fail to show certain features of applicant's invention pursuant to claim 1, it is noted that the features upon which applicant relies (i.e., those corresponding to the cited portions) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim (and claim 1 in particular) merely requires that system 'determines which of the predetermined number of channels contain programming'. If Elenbaas et al. did not 'determine which of the predetermined number of channels contain programming', then it would not be able to provide the user with channels that contain programming of interest as taught by the reference. Accordingly, the Elenbaas et al. reference meets limitation by virtue of determining which channels contain programming that is of interest to the user.

Applicant's provide no further particular arguments regarding claims 2-17. As previously discussed, these claims are similarly not considered patentable in view of the combined references.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elenbaas et al. (US Pub No. 2005/0028194) in view of Barton (US Pat No. 6,233,389 B1).

In consideration of claim 1, the Elenbaas et al. reference discloses a “method of creating a subset of channels with programming from a plurality of channels” (Abstract). The method comprises “receiving a plurality of channels, wherein the plurality of channels comprises at least one channel with programming” which potentially has information of interest (Para. [0017]). The system subsequently “processes at least one . . . intra and/or non-intra pictures” or MPEG based key-frames (reference pictures are synonymous with intra pictures -- Para. [0025]) to “determine which of the . . . channels contain programming to provide the subset of channels with programming” that is of interest to the user (Para. [0026], [0027], [0030], and [0031]) and “stores the subset of channels into memory” as necessary to facilitate the receiver in tuning to the programs/channels containing information of interest (Figure 3; Para. [0040]).

With respect to the particular step of “encoding”, the reference is silent other than to set forth that the processing occurs in association with “encoded intra and/or non-intra pictures”. Elenbaas et al., however, discloses that the system may be utilized with or embodied in a recording device (Para. [0041]). In an analogous art pertaining to video systems which receive video signal containing numerous channels for viewing, the Barton et al. illustrates a recording device that enables a user to simultaneously watch and record programming (Figures 1 and 2). The method, implemented by the system, comprises “receiving a plurality of channels, wherein the plurality of channels comprises at least one channel with programming” and “encoding at least a portion of a predetermined number of channels from the plurality of channels to provide a corresponding encoded intra and/or non-intra pictures for each of the predetermined number of channels” (Col 3, Line 30 – Col 4, Line 22; Col 6, Lines 47-58). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Elenbaas et al. so as to “encode at least a portion of a predetermined number of channels from the plurality of channels to provide corresponding encoded intra and/or non-intra pictures for each of the predetermined number of channels” as taught by Barton et al. and to subsequently “process at least one of the corresponding intra and/or non-intra pictures for each of the predetermined number of channels” as taught by Elenbaas et al. for the purpose of advantageously providing a means for the viewer of the personalized news retrieval system to have the ability to simultaneously record and play back TV broadcast programs in a manner that reduces processor and system requirements (Barton et al.: Col 1, Lines 52-59) and further supports the flexibility to do so for a variety of channel sources.

Claim 2 is rejected wherein the method further comprises “outputting channels exclusively corresponding to the subset of channels” (Elenbaas et al.: Figure 3; Para. [0040]).

Claim 3 is rejected wherein the method further comprises “analyzing at least a portion of an audio signal in the predetermined channels to determine which of the predetermined number of channels contain programming” of interest (Elenbaas et al.: Para. [0026]).

Claim 4 is rejected wherein “each corresponding encoded signal is an MPEG video signal containing pictures selected from the group comprising intra pictures or non-intra pictures” (Elenbaas et al.: Para. [0025]; Barton et al.: Col 6, Lines 47-58).

Claim 5 is rejected wherein the “processing step further comprises one or more of the steps selected from the group comprising: . . . analyzing discrete cosine coefficients of at least one of the intra pictures in the MPEG video signal” (Elenbaas et al.: Para. [0025]).

Claim 6 is rejected wherein the “encoding step further comprises the step of encoding at least a portion of each of the plurality of channels to provide the corresponding encoded signal for each of the plurality of channels” such that all incoming channels/streams received by the Barton et al. system are encoded as MPEG streams (Barton et al.: Col 3, Lines 30-61).

Claim 7 is rejected wherein the “subset of channels comprises a plurality of channel indicators for identifying the channels in the subset of channels” (Elenbaas et al.: Para. [0022]).

In consideration of claim 8, the Elenbaas et al. reference discloses a “method of creating a subset of channels with programming from a plurality of channels” (Abstract). The method comprises “receiving a plurality of channels, wherein the plurality of channels comprises at

least one channel with programming” which potentially have information of interest (Para. [0017]). The system subsequently “processes at least one . . . intra and/or non-intra pictures” or MPEG based key-frames and a “portion of a respective audio signal” associated with the received channels to “determine which of the . . . channels contain programming to provide a program channel” (Para. [0026], [0027], [0030], and [0031]) and “stores the subset of channels into memory” as necessary to facilitate the receiver in tuning to the programs/channels containing information of interest (Figure 3; Para. [0040]).

With respect to the particular step of “encoding”, the reference is silent other than disclose that the processing occurs in association with “encoded intra and/or non-intra pictures”. Elenbaas et al. suggests that the system may be utilized with or embodied in a recording device (Para. [0041]). In an analogous art pertaining to video systems which receive video signal containing numerous channels for viewing, the Barton et al. reference illustrates a recording device that enables a user to simultaneously watch and record programming. As illustrated in Figures 1 and 2, the “method” implemented via the system comprises “receiving a plurality of channels, wherein the plurality of channels comprises at least one channel with programming” and “encoding at least a portion of a predetermined number of channels from the plurality of channels to provide corresponding encoded intra and/or non-intra pictures for each of the predetermined number of channels” (Col 3, Line 30 – Col 4, Line 22; Col 6, Lines 47-58). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Elenbaas et al. so as to “encode at least a portion of a predetermined number of channels from the plurality of channels to provide corresponding encoded intra and/or non-intra pictures for



each of the predetermined number of channels” as taught by Barton et al. and to subsequently “process at least one of the corresponding encoded intra and/or non-intra pictures for each of the predetermined number of channels” as taught by Elenbaas et al. for the purpose of advantageously providing a means for the viewer of the personalized news retrieval system to have the ability to simultaneously record and play back TV broadcast programs in a manner that reduces processor and system requirements (Barton et al.: Col 1, Lines 52-59) and further supports the flexibility to do so for a variety or wide range of channel sources.

Claim 9 is rejected wherein the “programming on the subset of channels contains video content” (Elenbaas et al.: Para. [0017] – [0018]).

Regarding claim 10, the Elenbaas et al. reference discloses a “system for creating a subset of channels with programming from a plurality of channels” (Abstract). As illustrated in Figure 1, the system comprises a “receiver” [105] for “receiving a plurality of channels, wherein the plurality of channels comprises at least one channel with programming” which potentially has information of interest (Para. [0017]). The system further comprises a “video processor” [100/150] that is programmed to “processes at least one . . . encoded intra and/or non-intra pictures” or MPEG based key-frames to “determine which of the . . . channels contain programming to provide the subset of channel indicators” (Para. [0026], [0027], [0030], and [0031]) and “memory” (not shown) as necessary to “store the subset of channel indicators” in order to facilitate the receiver to tune to the programs/channels containing information of interest (Figure 3; Para. [0040]).

With respect to the particular step of “encoding”, as aforementioned, Elenbaas et al. is silent. In an analogous art pertaining to video systems which receive video signal containing

numerous channels for viewing, the Barton et al. reference illustrates a recording device that enables a user to simultaneously watch and record programming. As illustrated in Figures 1 and 2, the system comprises a “video processor” [101] “programmed to encode at least a portion of a predetermined number of channels from the plurality of channels to provide a corresponding encoded intra and/or non-intra pictures for each of the predetermined number of channels” (Col 3, Line 30 – Col 4, Line 22; Col 6, Lines 47-58). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Elenbaas et al. such that the “video processor [is] programmed to encode at least a portion of a predetermined number of channels from the plurality of channels to provide corresponding encoded intra and/or non-intra pictures for each of the predetermined number of channels” as taught by Barton et al. and to subsequently “process at least one of the corresponding intra and/or non-intra pictures for each of the predetermined number of channels” as taught by Elenbaas et al. for the purpose of advantageously providing a means for the viewer of the personalized news retrieval system to have the ability to simultaneously record and play back TV broadcast programs in a manner that reduces processor and system requirements (Barton et al.: Col 1, Lines 52-59) and further supports the flexibility to do so for a variety or wide range of channel sources.

Claim 11 is rejected wherein the “system presents channels corresponding only of the subset of channel indicators stored in memory” which correspond to the programming of interest as illustrated in Figure 3 of Elenbaas et al.

Claim 12 is rejected wherein the system further comprises an “audio detection circuit” [120] for “analyzing at least a portion of an audio signal in the predetermined channels to

determine which of the predetermined number of channels contain programming” of interest to the user (Elenbaas et al.: Para. [0026]).

Claim 13 is rejected wherein “each encoded signal is an MPEG video signal containing pictures selected from the group comprising intra pictures or non-intra pictures” (Barton et al.: Col 6, Lines 47-58).

Claim 14 is rejected wherein the “video processor is further programmed to perform one or more of the steps selected from the group comprising . . . analyzing discrete cosine coefficients of at least one of the intra pictures in the MPEG video signal” (Elenbaas et al.: Para. [0025]).

Claim 15 is rejected wherein the “encoder encodes at least a portion of each of the plurality of channels to provide a corresponding encoded signal for each of the plurality of channels” such that all incoming channels/streams received by the Barton et al. system are encoded as MPEG2 streams by the “encoder” [101] (Barton et al.: Col 3, Lines 30-61).

In consideration of claim 16, the Elenbaas et al. reference discloses a “system for creating a subset of channels with programming from a plurality of channels” (Abstract). As illustrated in Figure 1, the system comprises a “receiver” [105] for “receiving a plurality of channels, wherein the plurality of channels comprises at least one channel with programming including video and audio” which potentially have information of interest (Para. [0017]). The system further comprises a “processor . . . and an audio detection circuit” [100/150] to “processes at least a portion of an audio signal . . . [to] determine which of the . . . channels contain programming to provide a program channel subset containing at least audio and/or video” (Para. [0026], [0027], [0030], and [0031]) and “memory” (not shown) as necessary

for “storing the program channel subset” in order to facilitate the receiver to tune to the programs/channels containing information of interest (Figure 3; Para. [0040]).

With respect to the particular step of “encoding”, the reference is silent. In an analogous art pertaining to video systems which receive video signal containing numerous channels for viewing, the Barton et al. reference illustrates a recording device that enables a user to simultaneously watch and record programming. As illustrated in Figures 1 and 2, the system comprises an “encoder” for “encoding at least a portion of a predetermined number of channels from the plurality of channels to provide a corresponding encoded intra and/or non-intra pictures for each of the predetermined number of channels” (Col 3, Line 30 – Col 4, Line 22; Col 6, Lines 47-58). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Elenbaas et al. such that the to include an “encoder for encoding at least a portion of a predetermined number of channels from the plurality of channels to provide corresponding encoded intra and/or non-intra pictures for each of the predetermined number of channels” as taught by Barton et al. and to subsequently “process . . . at least one of the encoder and an audio detection circuit to process at least a portion of an audio signal in the predetermined number of channel from the plurality of channels” as taught by Elenbaas et al. for the purpose of advantageously providing a means for the viewer of the personalized news retrieval system to have the ability to simultaneously record and play back TV broadcast programs in a manner that reduces processor and system requirements (Barton et al.: Col 1, Lines 52-59) and further supports the flexibility to do so for a variety or wide range of channel sources.

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Claim 17 is rejected wherein the “subset of channels comprises a plurality of channel indicators for identifying the channels in the subset of channels” (Elenbaas et al.: Para. [0022]).

### ***Conclusion***

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343.

The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Scott Beliveau  
Primary Examiner  
Art Unit 2623

SEB  
August 15, 2006